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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.267 OF 2007

Narmadaben Himmatlal Shah & anr. Appellants
versus
Sheth Devkaram Mulji Jain Sasta
Bhadani Chawl Trust & others Respondents

Mr.J.B.Patel for appellants.
Mr.Pandey for respondents.

CORAM : A.S.OKA, J.

DATE : 05th April 2007

JUDGMENT :-

1. Heard advocate appearing for the appellants and the advocate for the respondents. Admit. Advocate for the respondents waives service. Taken up for hearing forthwith.

2. The challenge in this appeal is to the order dated 17th July 2006 passed by the learned Trial Judge by which ad interim relief has been granted on a Notice of Motion taken out by the respondents-defendants. Clause No.4 of the said order reads thus :-

> "4. Suit is expedited. This NM and Plaintiff's NM would be heard and disposed of along with suit. Suit to be disposed of by the end of September 2006."

3. The learned advocate for the respondents submits that this order was passed virtually by consent of the parties. However, I find that no such consent is reflected in the order. The Trial Court has directed that the suit should be disposed of by the end of September 2006. Perhaps that is the reason why the Trial Court directed that the Notices of Motion taken out by the parties should be heard along with the suit.

4. For various reasons, the suit has not been disposed of and the same is not yet ready for final hearing. The ad-interim order is operating since July 2006. Interests of justice will be served if clause no.4 of the impugned order is modified and the learned Trial Judge is directed to hear and decide the Notices of Motion taken out by both the parties as expeditiously as possible. However, at this stage, it is not possible to interfere with the ad-interim order.

5. Hence, the appeal is disposed of by passing following order :-

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(a) Clause no.4 of the order dated 17th July 2006 is modified. The learned Trial Judge is directed to hear and dispose of the Notices of Motion taken out by both the parties as expeditiously as possible and preferably on or before 15th July 2007.

(b) All contentions of the parties on merits of the pending Notices of Motion are expressly kept open;

(c) There will be no order as to costs;

(d) In view of disposal of Appeal from Order, Civil Application No.385 of 2007 does not survive and stands dismissed as such.

(A.S.OKA, J.)